

**REMARKS**

In light of the following remarks and above amendments, reconsideration and allowance of this application are respectfully requested.

It is submitted that these claims, as originally presented, are patentably distinct over the prior art cited by the Examiner, and that these claims were in full compliance with the requirements of 35 U.S.C. §112. Changes to these claims, as presented herein, are not made for the purpose of patentability within the meaning of 35 U.S.C. §101, §102, §103 or §112. Rather, these changes are made simply for clarification and to round out the scope of protection to which Applicants are entitled.

Claims 2-23, 25-46, 48-69 and 71-83, and amended claims 1, 24, 47 and 70 are in this application.

At paragraph 2 of the outstanding Final Office Action of July 17, 2003, the Examiner rejected claims 1-5, 8, 9, 17-20, 22-28, 31, 32, 40-43, 45-51, 54, 55, 63-66 and 68-72 under 35 U.S.C. 102(b) as being anticipated by Kuba et al. (U.S. Patent No. 5,806,072). Applicants therefore, respectfully traverse the rejection.

Amended independent claim 1 recites in part as follows:

“A data reading-and-writing apparatus for reading and writing data in at least one conforming format...comprising...control means for controlling said data reading-and-writing apparatus...**wherein said data in non-conforming format is data that is incapable of being processed by said reading-and-writing apparatus...**” (Underlining and bold added for emphasis.)

It is respectfully submitted that Kuba does not teach the newly added feature of amended independent claim 1. Furthermore, Kuba also does not teach storing data in non-

conforming format. At paragraph 25 of the present Final Office Action, the Examiner stated that Kuba discloses "storing means for storing information indicative of the data stored in a conforming format and the data in a non-conforming format." Applicants respectfully disagree with the Examiner. These portions of Kuba relied upon by the Examiner (column 5, lines 33-37 and column 8, lines 12-17), as well as the rest of Kuba, do not teach storing non-conforming data. These portions of Kuba state that there is a discriminating means for discriminating whether or not data to read out from the storage device is image data and if the data to be read out is not image data, then the user is notified that the data to be read out is not image data. Therefore, the image data as well as the non-image data of Kuba are both considered conforming data because both types of data can be read out or processed by the imaging apparatus.

In the specification, at page 38, lines 1-7, it states that the present invention is applicable to an apparatus, which is incapable of reading (or processing) the content of the non-conforming data, but has the ability to nonetheless recognize and handle the content of the data and to measure the residual capacity of the recording medium. Thus, the non-conforming data can be stored on a recording medium by the imaging apparatus, despite the fact that the imaging apparatus cannot process or use the data, but can transfer it. This is the limitation that has been added to the independent claims to further clarify what is meant by the term, non-conforming data. Amended independent claim 1 allows the storage of this data in a non-conforming format in a directory other than a predetermined directory of the reading and/or writing apparatus. This stored data can then be transferred to and processed by another apparatus that is given access to the storage medium, and to which the recorded data is conforming. Data may therefore be transferred to a memory device by an apparatus that cannot reproduce the data. Conforming and non-conforming data can be shared between any apparatuses that process different types of data,

even though the apparatus that originally received and stored the non-conforming data is incapable of reading or processing such data. Therefore, amended independent claim 1 is believed to be distinguishable from Kuba. For similar reasons, it is also believed that amended independent claims 24, 47 and 70 are also distinguishable from Kuba.

Further, claims 2-5, 8, 9, 17-20, 22, 23, 25-28, 31, 32, 40-43, 45, 46, 48-51, 54, 55, 63-66, 68, 69, 71 and 72 are dependent from one of amended independent claims 1, 24, 47 and 70, and due to such dependency are believed to be distinguishable over Kuba as applied by the Examiner for at least the reasons described above.

Applicants therefore, respectfully request that the 102(b) rejection of claims 1-5, 8, 9, 17-20, 22-28, 31, 32, 40-43, 45-51, 54, 55, 63-66 and 68-72 be withdrawn.

At paragraph 16 of the outstanding Final Office Action of July 17, 2003, the Examiner rejected claims 6, 7, 29, 30, 52, 53, 73 and 74 under 35 U.S.C. 103(a) as being unpatentable over Kuba et al. (U.S. Patent No. 5,806,072). Applicants therefore, respectfully traverse the rejection.

Claims 6, 7, 29, 30, 52, 53, 73 and 74 are dependent from one of amended independent claims 1, 24, 47 and 70 and, due to such dependency, are also believed to be distinguishable from Kuba for at least the reasons previously described. Therefore, claims 6, 7, 29, 30, 52, 53, 73 and 74 are believed to be distinguishable from Kuba.

Applicants therefore, respectfully request that the 103(a) rejection of claims 6, 7, 29, 30, 52, 53, 73 and 74 be withdrawn.

At paragraph 18 of the outstanding Final Office Action of July 17, 2003, the Examiner rejected claims 21, 44, 67 and 83 under 35 U.S.C. 103(a) as being unpatentable over

Kuba et al. (U.S. Patent No. 5,806,072) in view of Ando et al. (U.S. Patent No. 6,341,196).

Applicants therefore, respectfully traverse the rejection.

Claims 21, 44, 67 and 83 are dependent from one of amended independent claims 1, 24, 47 and 70 and, due to such dependency, are also believed to be distinguishable from Kuba for at least the reasons previously described. The Examiner did not rely on Ando to overcome the described deficiency of Kuba. Therefore, claims 21, 44, 67 and 83 are believed to be distinguishable from the applied combination of Kuba and Ando.

Applicants therefore, respectfully request that the 103(a) rejection of claims 21, 44, 67 and 83 be withdrawn.

At paragraph 20 of the outstanding Final Office Action of July 17, 2003, the Examiner rejected claims 11-15, 34-38, 57-61, 78 and 79 under 35 U.S.C. 103(a) as being unpatentable over Kuba et al. (U.S. Patent No. 5,806,072) in view of Walters et al. (U.S. Patent No. 6,453,281). Applicants therefore, respectfully traverse the rejection.

Claims 11-15, 34-38, 57-61, 78 and 79 are dependent from one of amended independent claims 1, 24, 47 and 70 and, due to such dependency, are also believed to be distinguishable from Kuba for at least the reasons previously described. The Examiner did not rely on Walters to overcome the described deficiency of Kuba. Therefore, claims 11-15, 34-38, 57-61, 78 and 79 are believed to be distinguishable from the applied combination of Kuba and Walters.

Applicants therefore, respectfully request that the 103(a) rejection of claims 11-15, 34-38, 57-61, 78 and 79 be withdrawn.

At paragraph 22 of the outstanding Final Office Action of July 17, 2003, the Examiner rejected claims 16, 39 and 62 under 35 U.S.C. 103(a) as being unpatentable over Kuba

et al. (U.S. Patent No. 5,806,072) in view of Takayanagi (U.S. Patent No. 5,251,297). Applicants therefore, respectfully traverse the rejection.

Claims 16, 39 and 62 are dependent from one of amended independent claims 1, 24, 47 and 70 and, due to such dependency, are also believed to be distinguishable from Kuba for at least the reasons previously described. The Examiner did not rely on Takayanagi to overcome the described deficiency of Kuba. Therefore, claims 16, 39 and 62 are believed to be distinguishable from the applied combination of Kuba and Takayanagi.

Applicants therefore, respectfully request that the 103(a) rejection of claims 16, 39 and 62 be withdrawn.

It is to be appreciated that the foregoing comments concerning the disclosures in the cited prior art represent the present opinions of the applicants' undersigned attorney and, in the event, that the Examiner disagrees with any such opinions, it is requested that the Examiner indicate where in the reference or references, there is the bases for a contrary view.

Please charge any fees incurred by reason of this response and not paid herewith to Deposit Account No. 50-0320.

Respectfully submitted,  
FROMMER LAWRENCE & HAUG LLP  
Attorneys for Applicants

By:

Gordon Kessler  
Reg. No. 38,511  
(212) 588-0800